

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ISIAH TRUJILLO,

Plaintiff,

v.

No. 19-cv-0006 JCH-JFR

CARLSBAD POLICE DEPT., *et al*,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Plaintiff's Notice of Final Order From the New Mexico Supreme Court (Doc. 29) (Notice). Plaintiff is incarcerated, *pro se*, and proceeding *in forma pauperis*. He initiated this case in 2019 by filing a Prisoner Civil Rights Complaint (Doc. 1) (Federal Complaint). The Federal Complaint functions like a notice of removal. In each section addressing his claims, Plaintiff writes "See Exhibit A, [Case] # D-503-CV-2018-1331" (hereinafter, the "State Complaint"). *See* Doc. 1 at 3-5. The Federal Complaint clarifies the State Complaint "deal[s] with the same facts involved in th[e federal action]" and that Plaintiff seeks "the same relief as" State Complaint. *Id.* at 5. Exhibit A - the State Complaint - raises claims under the New Mexico Tort Claims Act (NMTCA) and 42 U.S.C. § 1983 against the Carlsbad Police Department and its officers. The officers allegedly failed to prevent Plaintiff from leaving his home with alcohol and interrogated him while intoxicated. *See* Doc. 1-4 at 2-3.

The state civil docket, which is subject to judicial notice, reflects that the State Complaint was dismissed with prejudice on August 16, 2019. *See* Order Granting Defendants' Motion to Dismiss All Claims in D-503-CV-2018-1331 (State Dismissal Order). On July 1, 2020, this Court directed Plaintiff to show cause why the Federal Complaint is not barred by the doctrine of res

judicata, also known as claim preclusion. *See* Doc. 22. At the time, Plaintiff had not filed a state appeal, and the State Dismissal Order qualified as a final judgment on the merits. *See Stan Lee Media, Inc. v. Walt Disney Co.*, 774 F.3d 1292, 1298 (10th Cir. 2014) (dismissal under Rule 12(b)(6) is a decision on the merits); *State of New Mexico Uninsured Employers' Fund v. Gallegos*, 395 P.3d 533, 542 (N.M. App. 2017) (noting that “a prior dismissal *with prejudice*” ... “would have functioned as an adjudication on the merits and have res judicata effect”) (emphasis in original). The Order to Show Cause also noted that the parties and causes of action are identical in both actions, as the Federal Complaint simply attaches a copy of the State Complaint. *See* Doc. 22 at 2-3.

After receiving the Order to Show Cause, Plaintiff also filed an out-of-time appeal of the State Dismissal Order with the New Mexico Court of Appeals (NMCA). *See* Notice of Appeal in Case No. A-1-CA-39204. The out-of-time appeal appeared to impact the finality of the State Dismissal Order, which in turn impacts the preclusion analysis. For this reason, and in the interest of judicial economy, the Court entered an Order staying this case pending resolution of the state appeal with the NMCA and the New Mexico Supreme Court (NMSC). *See* Doc. 27. Plaintiff was directed to notify this Court in writing when the state appeal was completed.

On May 25, 2022, Plaintiff filed the instant Notice. The Notice attaches a NMSC Order denying certiorari relief, which concludes the state appeal. The Court will therefore lift the stay in this case and direct Plaintiff to file a single, updated response within thirty days to the Order to Show Cause. The Court will re-mail a copy of the Order to Show Cause, which sets out the procedural history and law on preclusion. The updated response should address why Plaintiff believes the Judgment resolving the State Complaint is not final and why he believes he did not

have a fair opportunity to litigate the claims in the prior action. Plaintiff is advised that the single, updated show-cause response will supersede and replace his prior filings addressing preclusion. He is also reminded that the claims in this case are limited to the Federal Complaint. If he wishes to add new, unrelated theories at this stage in the litigation, he must file a separate case. The failure to timely comply with this Order will result in dismissal of the Complaint with prejudice and without further notice.

IT IS ORDERED that the Court hereby **LIFTS** the stay in this case; and Plaintiff shall file an updated show-cause response within thirty (30) days of entry of this Order.

IT IS FURTHER ORDERED that the Clerk's Office shall **MAIL** Plaintiff another copy of the Order to Show Cause (Doc. 22).



SENIOR UNITED STATES DISTRICT JUDGE